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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,587	11/12/2003	Alfred Multerer	91136.000003	6679
23387	7590	11/09/2004	EXAMINER	
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/706,587	MULTERER, ALFRED <i>E</i>
	Examiner Khoi H Tran	Art Unit 3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 20 October 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Khoi H. Tran*  
KHOI H. TRAN  
PRIMARY EXAMINER

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because of new matter problem. Elements 9 are considered to be new matter.

### ***Response to Amendment***

1. The amendment filed 10/20/2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the transportation means in the form of grasping elements 9 was not original disclosed.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bouvier 6,152,044.

Bouvier '044 discloses a device for transporting objects and/or people per claimed invention. The device comprises at least one driving station having a single driving wheel 22 for driving a rope/cable 14 (Figures 1 and 4). The device comprises at least one deflection station having a single deflecting pulley 16.2. The at least one

deflection station is interpreted to be the lower pulley section/station that contains the single deflection pulley 16.2 as shown in Figure 2. Both of the driving wheel 22 and deflection pulley 16.2 are vertically arranged to rotate around horizontal axis. Both of the driving wheel 22 and deflection pulley 16.2 are cantilever mounted. Both of the driving wheel 22 and deflection pulley 16.2 are adjustable vertically to accommodate for height adjustment of the conveying system in relation to the ground.

In regards to claim 10, Bouvier '044 comprises transportation means 14 arranged at the transportation rope.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouvier 6,152,044.

In regards to claim 7, Bouvier '044 discloses all elements per claimed invention as explained above. However it is silent as to the specifics of diameter size of the driving wheel and/or the deflection pulley being at least 1 meter and at least 60 times larger than the diameter of the rope/cable. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide such relative dimension between the wheel/pulley and the rope/cable, since it has been held

that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

In regards to claim 8 Bouvier '044 discloses all elements per claimed invention as explained above. However it is silent as to the specifics of diameter size of the driving wheel and/or the deflection pulley being at least 1 meter or 1.5 meters. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide such diameter dimensions for Bouvier '044 wheel/pulley, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

5. Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pivarumas 4,611,452.

Pivarumas '452 discloses a device for transporting objects and/or people per claimed invention. The device comprises at least one driving station having a single driving wheel 2 for driving a rope/cable 3 (Figures 1 and 2). The device comprises at least one deflection station having a single deflecting pulley 4. Both of the driving wheel 2 and deflection pulley 4 are vertically arranged to rotate around horizontal axis. At least one of the driving wheel 2 and deflection pulley 4 is cantilever mounted (deflection pulley 4). However, Pivarumas '452 is silent as to the specifics of the cantilever pulley 4 being adjustable. Nevertheless, it is obvious that at least during the installation stage of pulley 4, vertical adjustments would have to be made in order to situate the pulley at a desirable height above the ground.

In regards to claim 7, Pivarumas '452 discloses all elements per claimed invention as explained above. However it is silent as to the specifics of diameter size of the driving wheel and/or the deflection pulley being at least 1 meter and at least 60 times larger than the diameter of the rope/cable. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide such relative dimension between the wheel/pulley and the rope/cable, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

In regards to claim 8, Pivarumas '452 discloses all elements per claimed invention as explained above. However it is silent as to the specifics of diameter size of the driving wheel and/or the deflection pulley being at least 1 meter or 1.5 meters. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide such diameter dimensions for Pivarumas '452 wheel/pulley, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

In regards to claims 9 and 10, it is obvious that Pivarumas '452 transportation rope 3 would include transportation means located thereon so that users/skiers would be able to engage with the transportation rope 3.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

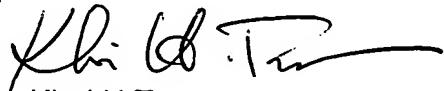
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
11/08/2004